

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

**WILLIE JAMES ROBINSON, JR. v. RICKY J. BELL, Warden,
and STATE OF TENNESSEE**

**Appeal from the Criminal Court for Davidson County
No. 3922 Cheryl Blackburn, Judge**

No. M2008-01802-CCA-R3-HC - Filed January 13, 2009

The Petitioner, Willie James Robinson, Jr., appeals from the trial court's dismissal of his petition seeking habeas corpus relief. The State has filed a motion requesting that this Court affirm the trial court's dismissal of the petition pursuant to Rule 20, Rules of the Court of Criminal Appeals. The State's motion is granted. The judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed Pursuant
to Rule 20, Tenn. Ct. Crim. App. R.**

DAVID H. WELLES, J., delivered the opinion of the court, in which JERRY L. SMITH and ROBERT W. WEDEMEYER, JJ., joined.

Willie James Robinson, Jr., Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Clarence E. Lutz, Assistant Attorney General; Victor S. Johnson, III, District Attorney General; and Bret Gunn, Assistant District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The petition for writ of habeas corpus filed in this case alleges that on August 21, 1987, the Petitioner was convicted of two counts of being an habitual criminal. The Petitioner asserts that as a result of the two convictions, the Petitioner received two sentences of life in prison. The petition also alleges that these two convictions of habitual criminality are void because at the time of his convictions the Petitioner had only one prior conviction which could properly be used to establish his status as a habitual criminal.

Without conducting an evidentiary hearing, the trial court entered an order dismissing the petition seeking habeas corpus relief. In denying relief, the trial court determined that the Petitioner failed to raise a cognizable habeas corpus claim, specifically finding as follows:

Further, this Court has reviewed Petitioner's thorough briefing and concludes Petitioner fails to raise a cognizable habeas corpus claim. The Court points out that habeas corpus relief may only be provided on very narrow grounds as set forth above. Specifically, a habeas corpus petition may be used only to contest void judgments, which are facially invalid because (1) the convicting court was without jurisdiction or authority to sentence a defendant; or (2) defendant's sentence has expired. Archer v. State, 851 S.W.2d [157,] 164 [(Tenn. 1993)]. Petitioner's judgment form is not facially invalid nor does it indicate Petitioner's sentence has expired.

As to Petitioner's claim that he was not convicted of two prior felonies to substantiate a habitual criminal conviction, Petitioner has failed to provide the judgment forms for the underlying charges in order for this Court to review whether Petitioner had the sufficient number of felonies to be deemed a habitual criminal. Moreover, although Petitioner argues that credit card theft is not a proper enhancing felony, Petitioner concedes in his petition that Petitioner was convicted of the offense receiving stolen property, a qualifying infamous felony, in his cases involving credit cards. (Petition for Writ of Habeas Corpus, filed Mar. 10, 2008, at 5, 7) (citing Petitioner's prior convictions in Case No. 16988 and Case No. 17738). Petitioner also concedes that his forgery conviction in Case No. C-6056 qualifies as a proper enhancing felony under the habitual criminal statute. Id. at 9.

The findings made by the trial court are supported by the record.

Article 1, section 15 of the Tennessee Constitution guarantees the right to seek habeas corpus relief and Tennessee Code Annotated sections 29-21-101 through-130 codify the applicable procedures for seeking a writ. However, the grounds upon which our law provides relief are very narrow. Taylor v. State, 995 S.W.2d 78, 83 (Tenn. 1999). Habeas corpus relief is available in Tennessee only when it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered that (1) the convicting court was without jurisdiction or authority to sentence a defendant; or (2) the defendant's sentence has expired. Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). Thus, the grounds upon which habeas corpus relief will be granted are very narrow. State v. Ritchie, 20 S.W.3d 624, 630 (Tenn. 2000). It is permissible for a trial court to summarily dismiss a petition for habeas corpus relief, without the appointment of counsel and without an evidentiary hearing, if there is nothing on the face of the judgment to indicate that the convictions addressed therein are void. Passarella v. State, 891 S.W.2d 619 (Tenn. Crim. App. 1994), superceded by statute as stated in State v. Steven S. Newman, No. 02C01-9707-CC-00266, 1998 WL 104492, at *1 n. 2 (Tenn. Crim. App., Jackson, Mar. 11, 1998).

The essence of the Petitioner's claim is that the evidence presented at his trial in 1987 was not sufficient to support his convictions. Because the petition, along with the attachments, failed to state a cognizable claim for habeas corpus relief, we conclude that the trial court properly dismissed the petition without a hearing and without appointing counsel. Accordingly, the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee.

DAVID H. WELLES, JUDGE